IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
WRIT PETITION NO.7375 OF 2005

Krishnat Maruti Nikate .. ..Petitioner
Versus
Zilla Parishad Solapur & Ors. .. ..Respondents

Mr.Anand Kulkarni for petitioner
Mr.Nitin Jamdar for respondent Nos.1 and 2

CORAM : P.V.KAKADE, J.

DATE : 25TH JANUARY, 2006

P.C.:

1. Heard the learned counsel for both the parties. Perused the record.

2. The petitioner-landlord has filed this petition against the judgment and order passed by Addl. District Judge, Solapur whereby appeal was allowed and the Regular Civil Suit No.297 of 1998 came to be dismissed reversing the judgment and decree passed by the trial court for decreeing the suit.

3. It is evident from the record that the suit for possession of the suit premises came to be filed only on the ground that the structure had become dilapidated condition and therefore, the defendant had neglected to keep the premises in proper repairs and hence plaintiff was entitled to seek possession on that ground.

4. The defendants denied all the allegations. The learned trial judge after hearing both the parties and recording the evidence came to the conclusion that the plaintiff had proved that the suit premises was in dilapidated condition and it was dangerous to use and hence suit came to be decreed on that count.

5. The appeal was carried to the lower appellate court, who on hearing both the parties was of the view that there was reason to believe that necessary repairs were carried out to the suit premises by the defendants through their teachers, and therefore, mere production of order of demolition was not sufficient to obtain decree under the Rent Act against the tenant. It was further held that in the present case the landlord did not take pains to file the notice issued by the Municipal Corporation on record in order to show that the building was really in dilapidated condition. It was pointed on behalf of the petitioner that the Court Commissioner's Report was supporting his version, however, the facts remains that the repairs were carried out to the four rooms structure, which are in possession of the defendant and therefore, alleged cause of action for filing the suit appears to have extinguished. Under the circumstances, I do not see any illegality committed by the lower court while dismissing the suit while allowing the appeal. In

the result the petition has no merits and stands dismissed with no order as to costs.